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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

OCT 30 2001

WILLIAM A. MUNDELL
CHAIRMAN

JIM IRVIN
COMMISSIONER

MARC SPITZER
COMMISSIONER

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
LIGHTSOURCE TELECOM I, LLC FORMERLY
KNOWN AS DYNAMIC TELECOM
ENGINEERING I, LLC FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
COMPETITIVE FACILITIES-BASED AND
RESOLD LOCAL EXCHANGE,
INTEREXCHANGE, AND EXCHANGE ACCESS,
TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-03940A-00-0771

DECISION NO. 64178

OPINION AND ORDER

DATE OF HEARING: May 30, 2001

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Mr. Stephen Gibelli

APPEARANCES: Mr. James Muskovitz, Senior Counsel, on behalf of
LightSource Telecom I, LLC;

Ms. Teena Wolfe, Staff Attorney, Legal Division, on
behalf of the Utilities Division of the Arizona
Corporation Commission.

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the
Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. LightSource Telecom I, LLC formerly Dynamic Telcom Engineering I, LLC
("LightSource" or "Applicant") is an Ohio Limited Liability Company, authorized to do business in
Arizona since 2000.

2. On October 2, 2000, LightSource filed with the Commission an application for a
Certificate of Convenience and Necessity ("Certificate") to provide competitive facilities-based and
resold local exchange, interexchange, and exchange access telecommunications services in Arizona.

3. On November 2, 2000, LightSource filed an update to its application.

4. On January 22, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff

1 Report, which recommended approval of the application and included a number of additional
2 recommendations.

3 5. On January 30, 2001, a Procedural Order was issued scheduling the matter for hearing
4 on May 30, 2001.

5 6. On April 10, 2001, LightSource filed an Affidavit of Publication indicating
6 compliance with the Commission's notice requirements.

7 7. Pursuant to the Commission's January 30, 2001 Procedural Order, a hearing was held
8 on May 30, 2001, and LightSource and Staff presented evidence.

9 8. On June 4, 2001, the Applicant filed a letter indicating that it has changed its name
10 from Dynamic Telecom Engineering I, LLC to LightSource Telecom I, LLC.

11 9. The management of LightSource has many years of experience in the
12 telecommunications industry.

13 10. LightSource has the technical capability to provide the services that are proposed in its
14 application.

15 11. Currently there are several incumbent providers of local exchange telecommunications
16 services in the service territory requested by Applicant, and at least several other entities have been
17 authorized to provide competitive local exchange services in all or portions of that territory.

18 12. It is appropriate to classify all of LightSource's authorized services as competitive.

19 13. The Staff Report stated that LightSource has no market power and the reasonableness
20 of its rates would be evaluated in a market with numerous competitors.

21 14. According to Staff, LightSource has submitted a summary of the audited financial
22 statements of its parent company for the year ended December 31, 1999. These financial statements
23 list assets of \$681,735 and total shareholders' equity of \$597,394. Staff believes that LightSource
24 lacks sufficient financial strength to offer the requested telecommunications services in Arizona
25 absent the procurement of a performance bond.

26 15. Staff recommends that LightSource's application for a Certificate to provide
27 competitive facilities-based and resold local exchange, interexchange, and access telecommunications
28 services be granted subject to the conditions that:

- 1 (a) unless it provides services solely through the use of its own facilities, LightSource
2 procure an Interconnection Agreement before being allowed to offer local
exchange service;
- 3 (b) LightSource file with the Commission, within 30 days of an Order in this matter,
4 its plan to have its customers telephone numbers included in the incumbent's
Directories and Directory Assistance databases;
- 5 (c) LightSource pursue permanent number portability arrangements with other LECs
6 pursuant to Commission rules, federal laws and federal rules;
- 7 (d) LightSource abide by and participate in the AUSF mechanism instituted in
8 Decision No. 59623, dated April 24, 1996 (Docket No. RT-T-03908A-00-0559E-
95-0498);
- 9 (e) LightSource abide by the quality of service standards that were approved by the
Commission for USWC in Docket No. T-0151B-93-0183;
- 10 (f) in areas where LightSource is the sole provider of local exchange service facilities,
11 LightSource provide customers with access to alternative providers of service
pursuant to the provisions of Commission rules, federal laws and federal rules;
- 12 (g) LightSource certify, through the 911 service provider in the area in which it
13 intends to provide service, that all issues associated with the provision of 911
14 service have been resolved with the emergency service providers within 30 days of
an Order in this matter;
- 15 (h) LightSource abide by all the Commission decisions and policies regarding CLASS
services;
- 16 (i) LightSource provide 2-PIC equal access;
- 17 (j) LightSource certify that all notification requirements have been completed by
18 filing appropriate affidavits prior to a final determination in this proceeding;
- 19 (k) notify the Commission immediately upon changes to LightSource's address or
telephone number;
- 20 (l) LightSource comply with all Commission rules, orders, and other requirements
21 relevant to the provision of intrastate telecommunications service;
- 22 (m) LightSource maintain its accounts and records as required by the Commission;
- 23 (n) LightSource file with the Commission all financial and other reports that the
24 Commission may require, and in a form and at such times as the Commission may
designate;
- 25 (o) LightSource maintain on file with the Commission all current tariffs and rates, and
any service standards that the Commission may require;
- 26 (p) LightSource cooperate with the Commission investigations of customer
27 complaints; and,
- 28 (q) LightSource participate in and contribute to a universal service fund, as required
by the Commission.

1
2 16. Staff further recommended that LightSource's tariffs be approved on an interim basis
3 subject to the following:

4 (a) That LightSource file conforming tariffs within 30 days of an Order in this
5 matter, and in accordance with the Decision;

6 (b) That LightSource should be required to file in this Docket, within 18 months of
7 the date it first provides service following certification, sufficient information
8 for Staff analysis and recommendation for a fair value finding, as well as for an
analysis and recommendation for permanent tariff approval. This information
must include, at a minimum, the following:

9 1. A dollar amount representing the total revenue for the first twelve
10 months of telecommunication's service provided to Arizona customers
11 by LightSource following certification, adjusted to reflect the
12 maximum rates that LightSource has requested in its tariff. This
adjusted total revenue figure could be calculated as the number of units
sold for all services offered times the maximum charge per unit.

13 2. The total actual operating expenses for the first twelve months of
14 telecommunications service provided to Arizona customers by
LightSource following certification.

15 3. The value of all assets, listed by major category, including a description
16 of the assets, used for the first twelve months of local exchange and
17 interexchange telecommunications services provided to Arizona
18 customers by LightSource following certification. Assets are not
limited to plant and equipment. Items such as office equipment and
office supplies should be included in this list.

19 (c) LightSource's failure to meet the condition to timely file sufficient information
20 for a fair value finding and analysis and recommendation of permanent tariffs
21 shall result in the expiration of the Certificate of Convenience and Necessity
and of the tariffs.

22
23 17. In order to protect LightSource's Arizona customers, Staff is also recommending that:

24 (a) LightSource procure a performance bond equal to \$100,000. The minimum
25 bond amount of \$100,000 should be increased if at any time it would be
insufficient to cover prepayments or deposits collected from LightSource's
26 customers;

27 (b) if LightSource desires to discontinue service, it should file an application with
28 the Commission pursuant to A.A.C. R14-2-1107;

- (c) LightSource should be required to notify each of its customers and the Commission 60 days prior to filing an application to discontinue service pursuant to A.A.C. R14-2-1107; and any failure to do so should result in forfeiture of LightSource's performance bond;
- (d) proof of the performance bond should be docketed within 90 days of an Order in this matter or 30 days prior to the provision of service, whichever comes first, and must remain in effect; however
- (e) if at some time in the future LightSource's financial outlook improves, LightSource can file a request for cancellation of its established performance bond. Such request should be accompanied by information demonstrating LightSource's financial ability. Upon receipt of such filing and after Staff review, Staff will forward its recommendation to the Commission.

18. On August 29, 2000, the Court of Appeals, Division One, ("Court") issued its Opinion in Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV, Section 14 of the Arizona Constitution requires the Commission to "determine fair value rate base ("FVRB") for all public service corporations in Arizona prior to setting their rates and charges."

19. On October 26, 2000, the Commission filed a Petition for Review to the Arizona Supreme Court.

20. On February 13, 2001, the Commission's Petition was granted. However, at this time we are going to request FVRB information to insure compliance with the Constitution should the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We also are concerned that the cost and complexity of FVRB determinations must not offend the Telecommunications Act of 1996.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

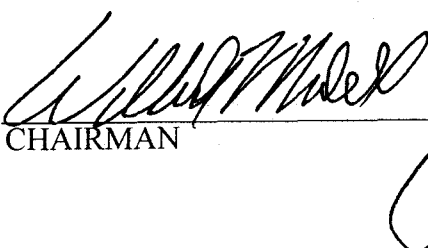
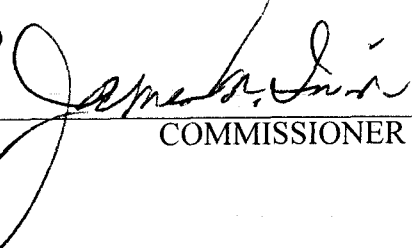
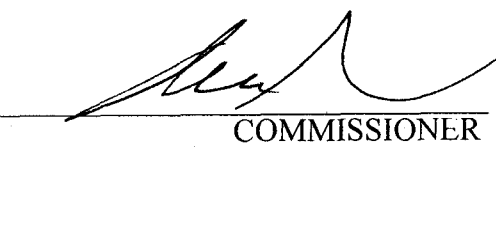
4. A.R.S. § 40-282 allows a telecommunications company to file an application for a Certificate to provide competitive telecommunications services.

1 operation under the Certificate granted by the Commission, LightSource can file a request for
2 cancellation of its established performance bond. Such request should be accompanied by
3 information demonstrating LightSource's financial ability. Upon receipt of such filing and after Staff
4 review, Staff will forward its recommendation to the Commission.

5 IT IS FURTHER ORDERED that LightSource Telecom I, LLC shall comply with all of the
6 Staff recommendations set forth in Findings of Fact Nos. 15, 16, and 17.

7 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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10   
11 CHAIRMAN COMMISSIONER COMMISSIONER
12

13 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
14 Secretary of the Arizona Corporation Commission, have
15 hereunto set my hand and caused the official seal of the
16 Commission to be affixed at the Capitol, in the City of Phoenix,
17 this 30th day of October, 2001.

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19 BRIAN C. McNEIL
20 EXECUTIVE SECRETARY

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1 SERVICE LIST FOR: LIGHTSOURCE TELECOM I, LLC

2 DOCKET NO.: T-03940A-00-0771

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